IN THE HIGH COURT OF BOMBAY AT GOA
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COMPANY PETITION NO. 2-G OF 2004

Greentech Seeds
International Private
Limited incorporated
under the Companies
Act, 1956 and having
its Registered Office
at Jai Kisaan Bhawan,
Zuarinagar Goa 403 726. ... Petitioner

Shri M. S. Sonak, with Shri D. Pangam, advocate for the petitioner.

Shri V. P. Thali, Senior Central Government Standing Counsel for the Regional Director, Department of Company Affairs, New Delhi.

CORAM : S. A. BOBDE, J.

DATE : 25th June, 2004

ORAL ORDER

The Central Government has made a representation to this Court under Sections 391 to 394 of the Companies Act, 1956. The learned Senior Central Government Standing Counsel has submitted that it would be necessary for the transferee Company to comply with Section 31 of the Companies Act by applying for an alteration in its Articles to accommodate an increase in the authorized capital of the transferee Company. According to the Regional Director, Department of Company Affairs, who has made this representation upon sanctioning of the scheme, the issue of subscribed and paid up capital of the transferee Company would stand increased to Rs.1620.65 lakhs comprising Rs.162.06 lakhs equity shares of the face value of

Rs.10/- each fully paid up. Since the present authorized capital of the Company is only Rs.900 lakhs comprising of Rs.90 lakhs equity shares of Rs.10/- each, the increase cannot be accommodated without an alteration in the Articles, as required by Section 31 of the Companies Act.

2. This apprehension on the part of the Regional Direction is unfounded. Part II of the scheme which would come into effect upon sanction by this Court reads as follows:-

> "1.1 The Issued Subscribed and Paid-up Equity Capital of the Transferee Company upon sanctioning of the scheme is Rs.1620.65 lakhs comprising of 162.06 lakhs equity shares of the face value of Rs.10 each fully paid and which shall be simultaneously reduced to Rs.617.42 lakhs comprising of Equity Shares of the face value Rs.3.81. The reduction shall be effected by cancelling Rs.6.19 per every equity share from the face value of Rs.10 each held by the shareholders as on the Record Date."

3. Thus it is obvious that though the number of equity shares of the face value of Rs.10/- fully paid would come up to 162.06 lakhs and would be of the value of Rs.1620.65 lakhs, by operation of Clause 1.1 above, the face value would be reduced to Rs.3.81. The reduction will be achieved by cancelling Rs.6.19 on every equity share which shows a face value of Rs.10/- held by the shareholders as on the recorded dated. The capital would then not exceed the authorized share i.e. Rs.900 lakhs and would be in the region

of 617.42 lakhs.

4. Hence, I am of the view that this is not a case which calls for compliance with Section 31 of the Companies Act on the part of the transferee Company. For the same reasons recorded aforesaid, it would not be necessary for the transferee Company also to comply with Section 97 of the Companies Act. These reasons shall form part of the Judge's Order passed today in the Company Petition.

5. Copy of this Order duly authenticated by the Court Sheristedar be given to the petitioner.

S. A. BOBDE, J.

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